

2005 DRAFTING REQUEST

Bill

Received: **09/24/2004**

Received By: **rchampag**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Olsen-Hasek**

This file may be shown to any legislator: **NO**

Drafter: **rchampag**

May Contact:

Addl. Drafters:

Subject: **Employ Pub - employee benefits**
 Employ Pub - miscellaneous
 Employ Pub - retirement

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Olsen-Hasek, BB0064 -

Topic:

Litigation costs funding

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rchampag 09/27/2004	kfollett 09/27/2004		_____			State
/1			pgreensl 09/27/2004	_____	lemery 09/27/2004		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	rchampag 11/08/2004	kfollett 11/09/2004	pgreensl 11/10/2004	_____	Inorthro 11/10/2004		

FE Sent For:

<END>

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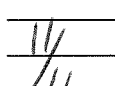
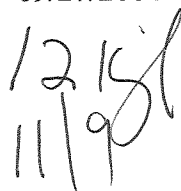

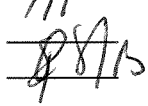
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LRB-0279

09/27/2004 02:49:40 PM

Page 2

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/?	rchampag	11 Kgl 9/27	9/27 P8	9/27 P8			
FE Sent For:							
<END>							

2005-07 Budget Bill Statutory Language Drafting Request

- Topic: Litigation Costs Funding Change
- Tracking Code: (Assigned by Government Operations Team) BB0064
- SBO team: State Government Operations
- SBO analyst: Sonya Olsen-Hasek
 - Phone: 6-8777
 - Email: sonya.olsen-hasek@doa.state.wi.us
- Agency acronym: ETF
- Agency number: 515

**Department of Employee Trust Funds Drafting Request
to the Legislative Reference Bureau**

☒ Draft for Possible 05-07 Budget Bill Introduction

☐ Draft for Possible Introduction as Department-sponsored or Independent Bill

Subject: Litigation Costs Funding Change

Request Date:

Reviewed by: Pam Henning

Contact Name in Agency for Drafter (phone no): Pam Henning (267-2929)

Brief Description of Intent:

The changes to Wis. Stat. § 40.03 (1) (c), § 40.04 (2) (d) and § 20.515 (1) (r) would permit any future costs of legal representation of the Employee Trust Funds (ETF) Board by special counsel to be paid directly from the trust funds instead of being billed to the Department of Justice's GPR special counsel appropriation under Wis. Stat. § 20.455 (1) (b).

Current situation: Under Wis. Stat. § 40.03 (3), DOJ is responsible for representing the ETF Board in any action brought by, or against, the Board. This proposal does not change that. Under some circumstances, the DOJ is not available to, or may not, represent the Board. This has occurred, for example, because of a conflict of interest. DOJ attorneys are covered by the Wisconsin Retirement System and might sometimes be personally affected by the litigation in question. If the DOJ cannot represent the Board, then – under present law – special counsel must be requested. Special counsel is employed by the Governor under Wis. Stat. §§ 14.11 (2) (a) 2. and 20.930.

The requested changes to Wis. Stat. §§ 40.03 (1) (c) and 40.04 (2) (d) would save State of Wisconsin GPR revenue. It is reasonable for the Trust Fund to bear the administrative expense of litigation, as it now does when represented by the DOJ under current law. The changes would cause the trust fund to pay for representation by legal hired by the Board in lieu of DOJ representation. To avoid any conflict with the authority of the trustees concerning trust fund expenditures, and because trust funds rather than state funds would be expended, there would be no requirement for gubernatorial approval of the employment of the Board's attorney.

Related Statutory Citations

Amends s. 40.03 (1) (c), s. 40.04 (2) (d), and s. 20.515 (1) (r).



✓ Additional material(s) are attached if checked

DOA
Budget
Draft

Seen
2005 BILL

LRB-0279/1
RAC: *kjf*

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cat.*

1 AN ACT *to amend* 20.515 (1) (r), 40.03 (1) (c) and 40.04 (2) (d) of the statutes;
relating to: *litigation costs incurred by the Department of Employee Trust*
Funds and making an appropriation. *the budget*

*anal: title,
↓ head*

RETIREMENT
AND GROUP
INSURANCE

Analysis by the Legislative Reference Bureau

Currently, the Employee Trust Funds Board may appoint outside legal counsel with the approval of the governor. This bill authorizes the board to appoint outside legal counsel without the governor's approval and provides that the cost of such counsel is to be paid from moneys deposited in the public employee trust fund.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 4 SECTION 1. 20.515 (1) (r) of the statutes is amended to read:
5 20.515 (1) (r) *Benefit and coverage payments.* All moneys credited to the public
6 employee trust fund for payment from the appropriate accounts and reserves of the
7 fund of the benefits, contributions, insurance premiums, and refunds authorized by

BILL**SECTION 1**

1 ch. 40 for the respective benefit plans and of the costs of legal counsel employed or
2 selected under s. 40.03 (1) (c). Estimated disbursements under this paragraph shall
3 not be included in the schedule under s. 20.005.

4 **SECTION 2.** 40.03 (1) (c) of the statutes is amended to read:

5 40.03 (1) (c) Shall appoint the secretary of the department and may employ or
6 select any medical, legal, and other independent contractors as are required for the
7 administration of the fund. Section 20.930 shall not apply to the employment or
8 selection of legal counsel under this paragraph.

9 **SECTION 3.** 40.04 (2) (d) of the statutes is amended to read:

10 40.04 (2) (d) The costs of investing the assets of the benefit plans and
11 retirement systems, including all costs due to s. 40.03 (1) (n), and the costs of legal
12 counsel employed or selected under s. 40.03 (1) (c) shall be paid from the
13 appropriation under s. 20.515 (1) (r) and charged directly against the appropriate
14 investment income or reserve accounts of the benefit plan or retirement system
15 receiving the services.

16 (END)

Champagne, Rick

From: Olsen-Hasek, Sonya
Sent: Monday, November 08, 2004 9:38
To: Champagne, Rick
Subject: redraft request: 05-0279

Rick,

Please redraft stat language request 05-0279 to reflect the following:

- remove the change that authorizes the ETF board to appoint outside legal counsel without the Governor's approval; and
- retain the provision for costs of outside legal counsel to be paid from the trust fund [from the (1)(r) appropriation].

Thank you and let me know if you have any questions. My phone is 266-8777.

Sonya



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-0279/1

RAC:kjf:18

2
RMK

SEON

DOA:.....Olsen-Hasek, BB0064 - Litigation costs funding

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

Do Not
Gen

that are not appropriated
otherwise appropriated
for DETF operations

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

RETIREMENT AND GROUP INSURANCE

Currently, the Employee Trust Funds Board may appoint outside legal counsel with the approval of the governor. This bill ~~authorizes the board to appoint outside legal counsel without the governor's approval and~~ provides that the cost of such counsel is to be paid from moneys deposited in the public employee trust fund.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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3 20.515 (1) (r) *Benefit and coverage payments.* All moneys credited to the public
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6 ch. 40 for the respective benefit plans and of the costs of legal counsel employed or

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2 not be included in the schedule under s. 20.005.

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6 administration of the fund. Section 20.930 shall not apply to the employment or
7 selection of legal counsel under this paragraph.

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9 40.04 (2) (d) The costs of investing the assets of the benefit plans and
10 retirement systems, including all costs due to s. 40.03 (1) (n), and the costs of legal
11 counsel employed or selected under s. 40.03 (1) (c) shall be paid from the
12 appropriation under s. 20.515 (1) (r) and charged directly against the appropriate
13 investment income or reserve accounts of the benefit plan or retirement system
14 receiving the services.

15 (END)



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-0279/2

RAC:kjf:pg

DOA:.....Olsen-Hasek, BB0064 - Litigation costs funding

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

RETIREMENT AND GROUP INSURANCE

Currently, the Employee Trust Funds Board may appoint outside legal counsel with the approval of the governor. This bill provides that the cost of such counsel is to be paid from moneys deposited in the public employee trust fund that are not otherwise appropriated for DETF operations.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 **SECTION 1.** 20.515 (1) (r) of the statutes is amended to read:

3 20.515 (1) (r) *Benefit and coverage payments.* All moneys credited to the public
4 employee trust fund for payment from the appropriate accounts and reserves of the
5 fund of the benefits, contributions, insurance premiums, and refunds authorized by
6 ch. 40 for the respective benefit plans and of the costs of legal counsel employed or

1 selected under s. 40.03 (1) (c). Estimated disbursements under this paragraph shall
2 not be included in the schedule under s. 20.005.

3 **SECTION 2.** 40.04 (2) (d) of the statutes is amended to read:

4 40.04 **(2)** (d) The costs of investing the assets of the benefit plans and
5 retirement systems, including all costs due to s. 40.03 (1) (n), and the costs of legal
6 counsel employed or selected under s. 40.03 (1) (c) shall be paid from the
7 appropriation under s. 20.515 (1) (r) and charged directly against the appropriate
8 investment income or reserve accounts of the benefit plan or retirement system
9 receiving the services.

10 **(END)**